

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0206-PWS-E **TCEQ ID:** RN101247336 **CASE NO.:** 35341

**RESPONDENT NAME:** Texas Tech University

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Texas Tech New Deal Research Farm, located one mile south of the intersection of Farm-to-Market Road 1729 and County Road 3000, Lubbock County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 21, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Kevin R. Pond, Department Chair, Animal &amp; Food Sciences, Texas Tech University, P.O. Box 42141, Lubbock, Texas 79409  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 12, 2007 and February 1, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 22, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and a record review.</p> <p><b>WATER</b></p> <p>1) Failure to properly develop and maintain Monthly Operating Reports ("MORs") of the public water system [30 TEX. ADMIN. CODE § 290.46(f)(3)].</p> <p>2) Failure to operate the disinfectant equipment to maintain the residual disinfectant concentration in the water at least 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.110(b)(4) and 290.46(d)(2)(A), and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to pay all annual and late Public Health Services fees for TCEQ Financial Administration Account No. 91520079 for Fiscal Year 2007 [30 TEX. ADMIN. CODE § 290.51(a)(3)].</p>	<p><b>Total Assessed:</b> \$306</p> <p><b>Total Deferred:</b> \$61  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$245</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent achieved compliance with the minimum disinfectant chlorine residual throughout the distribution system on December 17, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin compiling and maintaining properly completed MORs, including but not limited to recording and keeping on file the well production data and the amount of chemicals used each week;</p> <p>b. Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a and b.</p>

Additional ID No(s): PWS ID No. 1520079



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

<b>DATES</b>	<b>Assigned</b>	22-Jan-2008	<b>Screening</b>	1-Feb-2008	<b>EPA Due</b>	
	<b>PCW</b>	1-Feb-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Texas Tech University		
<b>Reg. Ent. Ref. No.</b>	RN101247336		
<b>Facility/Site Region</b>	2-Lubbock	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35341	<b>No. of Violations</b>	3
<b>Docket No.</b>	2008-0206-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Yuliya Dunaway
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$50	<b>Maximum</b>
			\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **Subtotals 2, 3, & 7**

2% Enhancement

Notes

The penalty enhancement is due to one prior NOV for violations that are dissimilar to those in the current enforcement action.

**Culpability** **Subtotal 4**

No

0% Enhancement

Notes

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **Subtotal 5**

Before NOV      NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria.

**Total EB Amounts**  **Subtotal 6**   
**Approx. Cost of Compliance**  **0% Enhancement\***  
**\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

0%

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

20%

Reduction

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$245**

**Screening Date** 1-Feb-2008

**Docket No.** 2008-0206-PWS-E

**PCW**

**Respondent** Texas Tech University

Policy Revision 2 (September 2002)

**Case ID No.** 35341

PCW Revision January 29, 2008

**Reg. Ent. Reference No.** RN101247336

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Yuliya Dunaway

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 2%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The penalty enhancement is due to one prior NOV for violations that are dissimilar to those in the current enforcement action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 2%

<b>Screening Date</b> 1-Feb-2008	<b>Docket No.</b> 2008-0206-PWS-E	<b>PCW</b>
<b>Respondent</b> Texas Tech University		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 35341		<i>PCW Revision January 29, 2008</i>
<b>Reg. Ent. Reference No.</b> RN101247336		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Yuliya Dunaway		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.46(f)(3)	
<b>Violation Description</b>	Failed to properly develop and maintain Monthly Operating Reports ("MORs") of the public water system. Specifically, at the time of the investigation, it was documented that the water system had limited records of well production data and did not have records of chemicals usage.	
	<b>Base Penalty</b>	\$1,000

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> <input style="width:50px" type="text" value="0%"/>
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> <input style="width:50px" type="text" value="10%"/>

**Matrix Notes**

Approximately 80% of the rule requirements were not met.

**Adjustment**

**Violation Events**

Number of Violation Events	1		51	Number of violation days
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		daily			<b>Violation Base Penalty</b> <input style="width:50px" type="text" value="\$100"/>
		monthly			
		quarterly			
		semiannual			
		annual			
<i>mark only one with an x</i>		single event	x		

One single event is recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input style="width:50px" type="text" value="\$13"/>	Violation Final Penalty Total <input style="width:50px" type="text" value="\$102"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width:50px" type="text" value="\$102"/>	

## Economic Benefit Worksheet

**Respondent** Texas Tech University  
**Case ID No.** 35341  
**Reg. Ent. Reference No.** RN101247336  
**Media** Public Water Supply  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$300	12-Dec-2007	1-Nov-2008	0.9	\$13	n/a	\$13
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed costs include the amount to properly prepare and maintain MORs, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$300	<b>TOTAL</b>	\$13
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<b>Screening Date</b> 1-Feb-2008	<b>Docket No.</b> 2008-0206-PWS-E	<b>PCW</b>	
<b>Respondent</b> Texas Tech University		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35341		<small>PCW Revision January 29, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101247336			
<b>Media [Statute]</b> Public Water Supply			
<b>Enf. Coordinator</b> Yuliya Dunaway			
<b>Violation Number</b> <input type="text" value="2"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.110(b)(4) and 290.46(d)(2)(A), and Tex. Health & Safety Code § 341.0315(c)		
<b>Violation Description</b>	Failed to operate the disinfection equipment to maintain the residual disinfectant concentration in the water at least 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times. Specifically, field tests conducted at 12820 N CR 3000 on December 12 and 13, 2007 recorded a free chlorine residual of 0.06 mg/L and 0.05 mg/L, respectively.		
	<b>Base Penalty</b>	<input type="text" value="\$1,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Release</b>	<b>Harm</b>	
		Major    Moderate    Minor	
	Actual	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	x	
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major    Moderate    Minor	
	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	If the water supply does not maintain proper levels of disinfection, bacteria may form in water and result in a significant amount of contaminated water which would not exceed levels that are protective of human health being distributed for human consumption.		
	<b>Adjustment</b>	<input type="text" value="\$900"/>	
			<input type="text" value="\$100"/>
<b>Violation Events</b>			
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="2"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$200"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	
Two single events are recommended.			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount	<input type="text" value="\$250"/>	Violation Final Penalty Total	<input type="text" value="\$204"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$204"/>

## Economic Benefit Worksheet

**Respondent** Texas Tech University  
**Case ID No.** 35341  
**Reg. Ent. Reference No.** RN101247336  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

All delayed costs are zero.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$250	12-Dec-2007	13-Dec-2007	0.0	\$0	\$250	\$250

Notes for AVOIDED costs

The avoided costs include the amount for additional maintenance, oversight, and an increase in chlorine dosage that could have avoided or prevented the low disinfectant residual levels, calculated for the days when the violation occurred.

Approx. Cost of Compliance \$250

TOTAL \$250

<b>Screening Date</b> 1-Feb-2008	<b>Docket No.</b> 2008-0206-PWS-E	<b>PCW</b>
<b>Respondent</b> Texas Tech University		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 35341		<small>PCW Revision January 29, 2008</small>
<b>Reg. Ent. Reference No.</b> RN101247336		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Yuliya Dunaway		
<b>Violation Number</b>	3	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.51(a)(3)	
<b>Violation Description</b>	Failed to pay all annual and late Public Health Services fees for TCEQ Financial Administration Account No. 91520079 for Fiscal Year 2007.	
	<b>Base Penalty</b>	\$1,000

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<b>Percent</b> <input type="text" value="0%"/>				
<b>Matrix Notes</b>	<input style="width:100%; height:100%;" type="text"/>				

**Adjustment**

**Violation Events**

Number of Violation Events <input type="text"/>	Number of violation days <input type="text"/>	
<small>mark only one with an x</small> <input type="checkbox"/> daily <input type="checkbox"/> monthly <input type="checkbox"/> quarterly <input type="checkbox"/> semiannual <input type="checkbox"/> annual <input type="checkbox"/> single event	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$0"/>

All penalties and interest will be assessed by the Financial Administration Division at the next billing cycle.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$0"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$0"/>	

## Economic Benefit Worksheet

**Respondent** Texas Tech University  
**Case ID No.** 35341  
**Reg. Ent. Reference No.** RN101247336  
**Media** Public Water Supply  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

There is no economic benefit associated to this violation.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

# Compliance History

Customer/Respondent/Owner-Operator:	CN600272256 Texas Tech University	Classification: AVERAGE	Rating: 1.79
Regulated Entity:	RN101247336 TEXAS TECH NEW DEAL RESEARCH FARM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1520079
	WATER LICENSING	LICENSE	1520079
Location:	1 ML S OF FM 1729 AND CR 3000, LUBBOCK COUNTY, TX		
TCEQ Region:	REGION 02 - LUBBOCK		
Date Compliance History Prepared:	February 01, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 01, 2003 to February 01, 2008		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Yuliya Dunaway Phone: (210) 403-4077

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	02/07/2003	(23759)
2	12/14/2004	(343779)
3	01/11/2007	(533429)
4	07/23/2007	(568131)
5	01/18/2008	(614268)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	01/11/2007	(533429)	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(P)		
Description:	Failure to provide all weather road to well #1.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(t)		
Description:	Failure to provide ownership signs on all facilities as required.		
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TEXAS TECH UNIVERSITY  
RN101247336**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0206-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Tech University ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply one mile south of the intersection of Farm-to-Market Road 1729 and County Road 3000, Lubbock County, Texas (the "Facility") that has approximately 25 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 27, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Three Hundred Six Dollars (\$306) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Forty-Five Dollars (\$245) of the administrative penalty and Sixty-One Dollars (\$61) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full



compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent achieved compliance with the minimum disinfectant chlorine residual throughout the distribution system on December 17, 2007.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to properly develop and maintain Monthly Operating Reports ("MORs") of the public water system, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3), as documented during an investigation conducted on December 12, 2007.
2. Failed to operate the disinfectant equipment to maintain the residual disinfectant concentration in the water at least 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.110(b)(4) and 290.46(d)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on December 12, 2007.
3. Failed to pay all annual and late Public Health Services fees for TCEQ Financial Administration Account No. 91520079 for Fiscal Year 2007, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3), as documented during a record review conducted on February 1, 2008.



### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Tech University, Docket No. 2008-0206-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, begin compiling and maintaining properly completed MORs, including but not limited to recording and keeping on file the well production data and the amount of chemicals used each week, as required by 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest and with the notation "Texas Tech University, TCEQ Financial Administration Account No. 91520079" to

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

with a copy to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering



Provision Nos. 2.a and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Lubbock Regional Office  
Texas Commission on Environmental Quality  
5012 50th Street, Suite 100  
Lubbock, Texas 79414-3421

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.



7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*[Handwritten Signature]*  
For the Executive Director

7/21/08  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*[Handwritten Signature]*  
Signature

4-21-08  
Date

KEVIN R POND, chair Animal & Food Sci  
Name (Printed or typed)  
Authorized Representative of  
Texas Tech University

Chair Animal & Food Sciences  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

